

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JEFFREY JACKSON, identified on
initiating document as Jeffrey Jackson-
El,

Case No. 1:10-cv-1081

Plaintiff,

HON. JANET T. NEFF

v

HILLARY CLINTON,

Defendant.

OPINION

Plaintiff, proceeding *in forma pauperis*, initiated the present action against Hillary Clinton, Secretary of State. The matter was referred to the Magistrate Judge, who performed an initial review of the complaint pursuant to 28 U.S.C. § 1915(e)(2) and issued a Report and Recommendation (R & R) on November 9, 2010, recommending that this Court dismiss plaintiff's complaint for failure to state a claim upon which relief may be granted (Dkt 5). That same day, Plaintiff filed a Motion to Amend Basis of Jurisdiction (Dkt 7), seeking to change the alleged basis for this Court's jurisdiction from federal question to diversity. On November 22, 2010, Plaintiff filed both an objection to the R & R (Dkt 8) and an accompanying amended complaint (Dkt 9).

In accordance with 28 U.S.C. § 636(b)(1), this Court has performed de novo consideration of those portions of the Report and Recommendation to which objections are made. Plaintiff's objection identifies no error in the Magistrate Judge's finding, but simply refers to his amended complaint, which he filed in conjunction with his objection (Dkt 8). In his amended complaint,

Plaintiff reasserts that he has been deprived of his “true legal status” as a Moorish-American National (Dkt 9 at 2). Plaintiff contends that the state of California has incorrectly recorded his race as being black, when he is, in fact, white (*id.*). Plaintiff seeks a court order requiring the Secretary of State to change his birth records accordingly and to “amend any assumption” that he is “a citizen of any state of the U.S.” (*id.*).

The Sixth Circuit Court of Appeals has held “that the district courts are not to permit plaintiffs to amend a complaint in order to avoid dismissal pursuant to [§ 1915(e)(2)].” *Benson v. O’Brian*, 179 F.3d 1014, 1016 (6th Cir. 1999). For this reason, and because the Court finds no error in the Magistrate Judge’s analysis, the Court denies Plaintiff’s objections. Even if the Court were permitted to consider the allegations of the amended complaint, Plaintiff has failed to assert facts which, if true, would entitle Plaintiff to relief. Because Plaintiff’s factual assertions do not give rise to relief under any theory, his Motion to Amend Basis of Jurisdiction (Dkt 7) is moot, and is, therefore, denied.

The Court therefore denies the objections, approves and adopts the Report and Recommendation as the Opinion of the Court, and denies as moot Plaintiff’s Motion to Amend Basis of Jurisdiction. An Order of Dismissal will be entered consistent with this Opinion.

Because Plaintiff is proceeding *in forma pauperis*, this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this Order would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601, 610 (6th Cir. 1997) (overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211-12 (2007)).

Date: February 18, 2011

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge